



**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

**IA NO.178/2022
IN
CP (IB) NO.131/ALD/2017**

In the matter of

An application under Section 35(1)(n) of Insolvency & Bankruptcy Code, 2016 read with Regulation 32A of Insolvency & Bankruptcy Board of India, Liquidation Process Regulations, 2016.

In the matter of:

Mr. Sanjay Gupta, Liquidator
Shamken Spinners Limited,
E-10A, Kailash Colony
New Delhi-110048

..... Applicant

Versus

Sujeet Motors (P) Limited,
Delhi Road, Hissar,
Model Town, Hissar.

..... Respondent

In the matter of:

ASSET RECONSTRUCTION COMPANY INDIA LIMITED

.....Financial Creditor

Versus

SHAMKEN SPINNERS LIMITED

.....Corporate Debtor

Order pronounced on 1st June, 2023

Coram:

Mr. Praveen Gupta. : Member (Judicial)
Mr. Ashish Verma : Member (Technical)



Appearances :

Sh. Amar Vivek with Ms. Shalya Agarwal, Advs.

: *For the Liquidator Mr. Sanjay Gupta present in person*

Sh. Dinkar Singh, Adv.

: *For the Auction Purchaser*

ORDER

IA NO.178 OF 2022

1. This order will decide the IA No.178/2022. The Applicant *herein* is the Liquidator of the Corporate Debtor for implementing the sale under the liquidation of the Corporate Debtor as a going concern.
2. On a Petition under Section 7 filed under the Insolvency and Bankruptcy Code, 2016 (the Code) by Asset Reconstruction Company India Limited, the Corporate Debtor i.e. M/s Shamken Spinners Limited was put under Corporate Insolvency Resolution Process (CIRP) by an order dated 29.05.2018 of this Bench and Mr. Anshul Gupta was appointed as IRP, who was later on confirmed as RP.
3. It is further submitted that subsequently in the 11th CoC meeting held on 18.02.2019, the CoC members deliberated that despite giving numerous opportunities, the resolution applicants have failed to provide complied plan, and thus, the CoC members had unanimously rejected the Resolution Plan with a vote share of 71.44% and further resolved to liquidate the Corporate Debtor. It was further resolved to appoint Mr. Sanjay Gupta as a Liquidator (*Applicant herein*) of the Corporate Debtor. Therefore, in the absence of a



Resolution Plan, this Bench on 26.10.2021 passed an order for liquidation of the Corporate Debtor under Section 33 of the Code. In pursuance of the said order, public announcement in Form B had been made by the Applicant/ Liquidator in terms of Regulation 12 of the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016 regarding the commencement of liquidation process, which was published in two daily newspapers widely circulated in Uttar Pradesh, one in Hindi 'Jansatta' and another in English 'Financial Express' on 13.11.2022.

4. It is also stated that this Tribunal in the liquidation order directed the Applicant/ Liquidator to first transfer the Corporate Debtor by Scheme of Compromise or Arrangement prescribed U/s 230 of Companies Act, 2013 and thereafter, sell the Corporate Debtor as a going concern. The relevant para of the said liquidation order dated 26.10.2021 is as under :-

“iv. The Liquidator shall first try to transfer the Corporate Debtor by compromise or arrangement in terms of Regulation 2B of IBBI (Liquidation Process) Regulations, 2016 thereafter the liquidator shall try to sale the Corporate Debtor as a going concern in terms of Regulation 32A read with Regulation 32(e) or 32(f) of IBBI (Liquidation Process) Regulations, 2016. The Liquidator to conduct the process of liquidation in the manner laid down in Chapter III of Part-II of the Code



subject to direction given in Clause iv of this order.”

5. It is further submitted that thereafter the Liquidator published Expression of Interest (EOI) in Financial Express and Jansatta (All India Edition) on 11.12.2021 and the last date for submission of EOI was 30.12.2021. As a result thereof, EOIs were received from three proposers namely, Vijayant Mittal, Corporate Consultants and Kundan Group, but despite their interests, none of the proposers have submitted the Scheme of Compromise and Arrangement.
6. It is also submitted that in the meantime, the Applicant/ Liquidator had constituted the Stakeholder Consultation Committee (SCC) and in consultation with the same, during the meeting dated 22.02.2022, agreed to group the assets and liabilities of the Corporate Debtor and fixed the reserved price for sale of the Corporate Debtor as a going concern.
7. The Liquidator invited bids for the sale of the assets of the Corporate Debtor as a ‘going concern’ by an E-auction process. The Liquidator published sale notice dated 03.03.2022 for e-auction in two local newspapers i.e., Financial Express ‘English’ all India Edition on 04.03.2022, and on 05.03.2022 in Jansatta ‘Hindi’ having circulation in Delhi NCR and Mathura, on “AS IS WHERE IS”, “AS IS WHAT IS”, “WHATEVER THERE IS” and “WITHOUT RECOURSE BASIS”.



8. The E-auction process states that the sale of the Company is proposed to be done on “*as is where is*”, “*as is what is*”, “*whatever there is*” and “*without recourse basis*”. Further, the commencement of E-auction was 31.03.2022 and the last date for submission of bids was 29.03.2022 from 03:00 PM to 05:00 PM.
9. Key highlights of the assets of the sale process as mentioned in the E-auction process information document is as under :-

Asset Description	Block	Reserve Price (in Rs.)	EMD Amount (in Rs.)	Incremental Value (in Rs.)
<u>(Complete plant on Going Concern Basis)</u> Land (Freehold Land admeasuring – 17.32 Acres) along with Building (Constructed Area- 33,090 Sq. Mtr.) and plant and machinery situated at 94 km Stone, Delhi – Mathura Road, Village Kotwan, District Mathura, Uttar Pradesh.	A	22 Crores	2.20 Crores	5 Lakhs

10. In pursuance of E-auction conducted on 31.03.2022, the applicant had received EMDs from 15 Bidders and the highest bid of Rs.41.05 Crores was received from the



Successful Bidder-M/s Sujeet Motors (P) Limited for all the assets of the Corporate Debtor sold on a going concern basis, and accordingly, the 14 EMDs received from the Bidders were returned back between 01.04.2022 and 10.04.2022. Thereafter, the Letter of Intent 'LOI' dated 02.04.2022 was issued by the Applicant to M/s Sujeet Motors (P) Limited on 06.04.2022, which was accepted and acknowledged by the Successful Bidder on 07.04.2022.

11. Further, in pursuance to the issuance of LOI, the 1st installment of Rs.8,21,00,000/- i.e. 20% of the final bid amount was received on 13.04.2022 by the Applicant from M/s Sujeet Motors (P) Limited, which was being in accordance with the terms and condition of E-auction document, and the remaining amount of Rs.30,64,00,000/- along with applicable taxes as determined by the Applicant/ Liquidator is required to be paid by M/s Sujeet Motors (P) Limited within 30 days, post approval of this sale of the Corporate Debtor as a going concern by this Tribunal. It is further submitted that in accordance with the para 1(12) of Schedule I of the Liquidation Process Regulations, the payments made after 30 days from the final approval of the order by this Tribunal, interest @ 12% p.a. shall be payable on the balance sale consideration for the period after 30th day till the final payment.



12. It is submitted that the balance payment by the Successful Bidder after receipt of 1st installment to be paid after final approval of this Tribunal as per the terms of E-auction document, which is as under :-

S.NO.	Particulars	Amount in Rs.
1.	Complete Plant on Going Concern basis (Freehold Land admeasuring – 17.32 Acres) along with Building (Constructed Area-33,090 Sq. Mtr.) and plant and machinery situated at 94 km Stone, Delhi – Mathura Road, Village Kotwan, District Mathura, Uttar Pradesh	Rs.41,05,00,000/-
	Less – EMD deposited	Rs.2,20,00,000/-
	Less – Amount to be received as 1st installment	Rs.8,21,00,000/-
	Grand Total	Rs.30,64,00,000/-

13. The successful bidder has paid 1st installment of the sale consideration for the CD and after full payment of the sale consideration by the successful auction purchaser, the next step would be, to transfer the corporate entity of the CD to the successful auction purchaser by issuing shares to them. At the same time, as per the provisions of Sec. 53 of IBC, all remaining debts and dues from the CD will be cleared, and there will be no further liability for the CD to be paid by the successful auction purchaser. The applicant is seeking approval from this Hon'ble Tribunal through this



IA for implementation of sale under the liquidation of Corporate Debtor as a going concern to the Successful Bidder.

14. The Applicant has prayed for the following reliefs:

- i.** *A direction be issued that the payment of the entire liquidation sale amount of Rs.41,05,00,000/- (Rupees Forty One Crore and Five Lakh Only) Crores is to be done by the Successful Bidder to the Applicant within 30 days of the approval of Sale of the Corporate Debtor as going concern by this Hon'ble Tribunal and the same to be in accordance with Paragraph 1(12) of Schedule I of the Liquidation Process Regulations. Further upon payment of the entire Liquidation Sale Amount by the Successful Bidder, hereinafter to be referred to as "Effective Date, and on the Effective Date all rights, title and interest in whole and every part of the Corporate Debtor including but not limited to intellectual property rights, free from security interest, encumbrance, claim, counter claim or any demur belong in g to Corporate Debtor shall continue to vest in the Corporate Debtor.*
- ii.** *A direction be issued that upon the Effective Date all rights and entitlements of claims or demands made by or liabilities or obligations owed or payable to the Financial Creditors, Operational Creditors, Employees, Workmen including claims related to their social security contributions, suppliers, Governmental Agencies, tax authorities including GST, income-tax liabilities, VAT liabilities, excise liabilities, service tax liabilities , withholding tax liabilities etc., including any interest, fines, penalties, fees, cess, surcharge or similar assessments payable, etc. whether filed /admitted/ verified or not, due or contingent, asserted or unasserted, crystallized or uncrystallized, known or unknown, contract,*



judicial/ quasi-judicial proceedings, disputed or undisputed, present or future, including any liability arising out of non-compliance of provision of any laws, rules, regulations, directions, notifications, circulars, guidelines, policies, licenses, approvals, consents or permissions as applicable on the Corporate Debtor, or reports as applicable on the Corporate Debtor, for the period upto the Effective Date, shall stand permanently and fully satisfied for the Corporate Debtor acquired by the Successful Bidder, and shall be handled/ extinguished by the Liquidator in accordance with section 53 of IBC 2016. Further, the Successful Bidder and /or the Corporate Debtor shall at no point of time, directly or indirectly, have any other obligation, liability or duty (whether financial, contractual, performance or otherwise) in relation thereto.

- iii.** *A direction be issued that all the subsisting consents, licenses, approvals, rights, entitlements, benefits and privileges whether under law, contracts, leases, granted in favour of Corporate Debtor or to which the corporate debtor is entitled to, shall, notwithstanding any provision to the contrary in their terms irrespective of the commencement of insolvency/ liquidation process shall under the Code, in relation to the Corporate Debtor be deemed to continue without disruption, for benefit of the Corporate Debtor and additional licenses, registrations and consent required by the Corporate Debtor, if any, be made available immediately. A direction be issued that any non-compliance or any liability (current or prospective) towards any non-compliance of provisions of any law, rules, regulations, directions, notifications, circulars, guidelines, policies, licenses, approvals, consent or permissions (including with respect to taxes) for the period up to the Effective Date shall stand satisfied and no claim, liability, pecuniary or otherwise shall be prescribed in relation to any such Non Compliances and they shall deemed to be extinguished.*



- iv.** *A direction be issued that the Corporate Debtor shall have a right to review and terminate any contract that was entered into prior to the commencement of corporate insolvency resolution process.*
- v.** *A direction be issued that all inquiries, investigation and Proceedings (including in relation to or on account of Tax), whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor (other than against the Erstwhile Promoters or former members of the management of the Corporate Debtor), pending or threatened, present or future in relation to discharged and terminated.*
- vi.** *A direction be issued that on the Effective Date, all inquiries, investigation and proceedings (including in relation to or on account of Tax), whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor, whether civil or criminal, suits, claims, disputes, interests and damages in connection with the Corporate Debtor or the affairs of the Corporate Debtor pending or threatened, present or future in relation to any period prior to the Effective Date or arising on account of sale of Corporate Debtor under liquidation as going concern, shall stand discharged and terminated.*
- vii.** *A direction be issued that the promoter and non-public shareholding and public shareholding in the Corporate Debtor shall be extinguished without any consideration, and rights and liabilities arising out of the same shall also be extinguished.*
- viii.** *A direction be issued that on and from the Effective Date, the status of the corporate debtor in the records of the Registrar of Companies be reflected as 'active' from the status of 'liquidation'.*
- ix.** *A direction be issued that on and from the Effective Date, the board of directors of the Corporate Debtor be reconstituted by removing the board of directors as*



existing on the Effective Date and appointing the new board nominated by the Successful Bidder, subject to affidavit and undertaking that the new board of directors are not disqualified under section 29A.

- x.** *A direction be is sued that the Successful Bidder is at liberty to determine its acquisition structure and infusion of “Liquidation Sale Amount” be done by the Successful Bidder or any of its nominees subject to compliance with Section 29A of the Code by way of issuance of Securities or any other instrument or by way of grant of loan.*
- xi.** *A direction be issued that the Liquidator be empowered and permitted to issue equity shares, of the Corporate Debtor in favour of the Successful Bidder or any of its nominees subject to compliance with Section 29A of the Code in lieu of the “Liquidation Sale Amount” received from the Successful Bidder or any of its nominees towards the “Liquidation Sale Amount” in a manner as informed to the Liquidator by the Successful Bidder.*
- xii.** *A direction be issued that on or after the Effective Date in lieu of the balance “Liquidation Sale Amount” paid by the Successful Bidder, the newly appointed Board of Directors be permitted to approve the infusion be done by Successful Bidder or any of its nominees by way of issuance of Securities or any other instrument or by way of grant of loan without the requirement of any further approvals on such terms and conditions as approved by the newly constituted board of directors of the Corporate Debtor.*
- xiii.** *A direction be issued that as the sale of Corporate Debtor as Going Concern is akin to implementation of resolution plan under the corporate insolvency resolution process all attendant benefits, privileges and exemptions under various laws, including under the taxation law, shall be applicable to the Corporate Debtor upon sale to the Successful Bidder, including but not limited to benefit of any tax holiday,*



exemption, deduction, carry forward of losses of any prior years and set- off against the income of any financial year as available to the Corporate Debtor, even in an eventuality where the Corporate Debtor does not remain listed in future, more so in view of compliance of provisions of Section 79(2)(c) of the Income Tax Act, 1961, which apply mutatis mutandis to sale of the corporate debtor under going concern under liquidation.

- xiv.** *A direction be issued that the Corporate Debtor and the Successful Bidder shall be granted an exemption from all Taxes, levies, surcharges, cess, fees, transfer charges, stamp duty, registration charges, transfer premiums, and surcharges that arise from or relate to implementation of Sale of Corporate Debtor as a going concern under Liquidation.*
- xv.** *A direction be issued that Liquidator and Respondent shall be at liberty to take all the steps required to make accounting entries for the smooth transmission and clearing the balance sheet.*
- xvi.** *That necessary exemption be provided to the Corporate Debtor from adding the words “and reduced” in its name, as required under the provisions of Companies Act, 2013.*
- xvii.** *All claims of the Corporate Debtor against third parties and its related parties shall remain outstanding, due and recoverable in accordance with their respective terms. Further, the Corporate Debtor shall be the sole beneficiary of any amount recovered by the Corporate Debtor and the Corporate Debtor/ Successful Bidder shall have full right to recover/ proceed against the party, whose account is recoverable in the books of Corporate Debtor as on the Effective Date and it shall be the sole beneficiary of the amount so recovered, except those assets which are specifically not included by the Liquidator in the Sale Notice and e-Auction Process Document.*



- xviii.** *A direction be issued to the Ministry of Corporate Affairs (MCA) and Registrar of Companies, Ahmedabad (ROC) that the charges registered with them in respect of encumbrances over the assets of the Corporate Debtor shall be satisfied upon the completion of the sale of the Corporate Debtor as a going concern, and that the order passed by this Hon'ble Tribunal shall be sufficient proof for the Successful Bidder to satisfy the charge on secured assets with records of MCA, ROC and other statutory and regulatory authorities upon completion of sale and issuance of the Sale Certificate.*
- xix.** *The Liquidator shall continue to hold the bank account with Kotak Mahindra Bank, “Shamken Spinners Limited in Liquidation” and fixed deposits pertaining to the amount received as sale consideration from the Successful Bidder, till the closure of the Liquidation Process in terms of Regulation 45(3)(a) of the Liquidation Process Regulations. Further, the Applicant/ Liquidator is empowered to issue directions to the banks to change the operating signatories, bank accounts of the Corporate Debtor on or after Effective Date, other than the Liquidation Bank Account held by the Liquidator, for smooth transition of the corporate debtor to the successful bidder.*
- xx.** *Direct that the Corporate Debtor and/or the Successful Bidder shall be at liberty to seek remedy if any available before the Hon'ble Tribunal to address any difficulties faced with respect to implementation of the acquisition of the Corporate Debtor as a going concern.*
- 15.** Regulation 32 of the Liquidation Process Regulations provides for the realization of assets and the same is extracted below:

*“[Sale of Assets, etc.
The Liquidator may sell-*



- a) *an asset on a standalone basis;*
- b) *the assets in a slump sale;*
- c) *a set of assets collectively;*
- d) *the assets in parcels;*
- e) *the corporate debtor as a going concern; or*
- f) *the business(s) of the corporate debtor as a going concern.*

Provided that where an asset is subject to security interest, it shall not be sold under any of the clauses (a) to (f) unless the security interest therein has been relinquished to the liquidation estate.]”

16. While the Liquidation Process Regulations recognizes going concern sale as one of the methods of sale, however, there is no definition as such for ‘going concern’ either in the Code or in the Regulations.

17. It is beneficial to refer the report of the Insolvency Law Committee dated 26/03/2018 (Para 8.1 of the Report), wherein the committee examined the term “going concern” as below:

“The phrase ‘as a going concern’ imply that the Corporate Debtor would be functional as it would have been prior to the initiation of CIRP, other than the restrictions put by the Code.”

18. It is beneficial to refer Para Nos. 7 & 8 of the Round Table of Insolvency and Bankruptcy Board of India held with the stakeholders on 21/05/2018, referring to the case of *Gujarat NRE*¹, wherein a note was published by IBBI defining “going concern” as below:

¹ Gujarat NRE-NCLT KOLKATA BENCH: C.P. (IB) No.182/KB/2017



“7. ‘Going Concern’ means all the assets, tangibles or intangibles and resources needed to continue to operate independently a business activity which may be whole or a part of the business of the corporate debtor without values being assigned to the individual asset or resource.”

In view of this, the following options are submitted for consideration:

- a. *The corporate debtor may be sold as a going concern, as provided in the extant regulations. As the Company survives, there will be no need for dissolution of the Company in terms of section 54 of the Code. The assets along with all attendant claims, limitations, licenses, permits or business authorizations remain in the Company. The Company survives as it was; the ownership of the Company is transferred by the Liquidator to the acquirer. The Liquidator shall make an application to the AA for approval of the sale of the corporate debtor as a going concern and the AA may pass an order with respect to:*
 - (a) Sale of the corporate debtor to the intended buyer as a going concern*
 - (b) Transfer of shares of the corporate debtor to the intended buyer*
 - (c) Transfer of the going concern of the corporate debtor to the buyers*
 - (d) Continuation of the authority, powers and obligations of the Liquidator to complete the liquidation process as provided under the Code and the regulations including the control, operations and continuation of the liquidation bank account of the corporate debtor,*
 - (e) Payment to stakeholders in accordance with section 53 from the liquidation bank account, and*
 - (f) Protection of the intended buyer from all claims and liabilities pertaining to the period prior to the sale of the corporate debtor as a going concern.*

In such a case, the final report of Liquidator, as required under clause (3) of regulation 45, shall form part of the application for the closure of the liquidation process of the



corporate debtor and not for the dissolution of the corporate debtor to the AA to be made under section 54.

b. The regulations may provide another option of sale, that is, sale of business of the corporate debtor as a going concern. It will be only sale of business, not the corporate debtor which will be liquidated in accordance with the regulations. In this case, the assets and liabilities relevant for the business are transferred to a new entity, and stakeholders are paid from proceeds of sale in accordance with section 53 and the corporate debtor will be dissolved.”

8. Both the options require consent of the secured creditors to relinquish security interest. If security interest is not relinquished, other modes of sale will be used.”

- 19.** One advantage of the sale of the Corporate Debtor as a ‘going concern’ is that the Corporate Debtor is retained, it will not be dissolved and the Corporate Debtor will be transferred along with the assets. So, the Corporate Debtor as a legal entity remains as such.
- 20.** The crux of the ‘sale as a going concern’ is that the equity shareholding of the Corporate Debtor is extinguished and the acquirer takes over the undertaking with the assets, licenses, entitlements etc. The undertaking includes the business of the Corporate Debtor, assets, properties and rights etc. excluding the liabilities.
- 21.** The Corporate Debtor survives, only the ownership is transferred by the Liquidator to the purchaser. All the rights, titles and interest in the Corporate Debtor including the legal entity is transferred to the purchaser. After the



sale as a 'going concern', the purchaser will be carrying on the business of the Corporate Debtor.

- 22.** In the normal parlance "going concern" sale is transfer of assets along with the liabilities. However, as far as the 'going concern' sale in liquidation is concerned, there is a clear difference that only assets are transferred and the liabilities of the Corporate Debtor has to be settled in accordance with Section 53 of the Code, hence the purchaser of this assets takes over the assets without any encumbrance or charge and free from the action of the Creditors.
- 23.** This Bench feels that following are the advantages of selling the Corporate Debtor "as a going concern":
- a. The entity i.e., the Corporate Debtor itself gets transferred;
 - b. The equity shareholding gets transferred or extinguished and new shares are issued;
 - c. The purchaser is expected to carry on the business of the Corporate Debtor after the sale of assets is confirmed;
 - d. The existing employees will have a chance to continue in their employment.
- 24.** The decision to sell the Corporate Debtor as a going concern is taken by the Liquidator himself or in consultation with the Creditors / stakeholders and the proceeds from the sale of assets are going to be utilized for distribution to the



Creditors in the manner specified under Section 53 of the Code. Hence all the Creditors of the Corporate Debtor get discharged and the assets are transferred free of any encumbrances. The legal entity of the Corporate Debtor however survives.

- 25.** In the case of sale as a 'going concern' the Corporate Debtor will not be dissolved in terms of Section 54 of the Code. The assets with the attendant, claims, limitations, licenses, permits or business authorizations, remains in the Company. Only the ownership of the Company is acquired by the successful bidder from the Liquidator.
- 26.** It is to be noted that even though there is no specific provision in the Code regarding "sale of the Company as a going concern", IBBI has formed the Liquidation Process Regulations, under the Code and we have to take them as guiding principles in dealing with the case.
- 27.** The Hon'ble Supreme Court in *Arcelor Mittal India Private Limited V/s Satish Kumar Gupta and Others (MANU/SC/1123/2018)* has referred to Regulation 32 of the Liquidation Process Regulations which states that the Liquidator may also sell the Corporate Debtor as a 'going concern'. Hence there is no impediment for the sale of the Corporate Debtor as a 'going concern'.
- 28.** As a consequence to the above discussions and on perusal of the pleadings and submissions made by the Ld. Counsel



for the applicant and having been satisfied with the need for smooth implementation of sale under liquidation of the Corporate Debtor as a going concern to applicant as successful auction purchaser, following order is passed keeping in view the provisions of Section 60(5) of the Code and Rule 11 of NCLT Rules, 2016 :

- a.** The reliefs sought in prayer clauses (iii), (iv), (vi), (vii), (x), (xii), (xiii), (xiv), (xvi) and (xviii) shall be dealt with as per the provisions of applicable laws.
- b.** Prayer (i) is allowed. The payment of the entire liquidation sale amount of Rs.41,05,00,000/- be done by the Successful Bidder within 30 days.
- c.** Prayer (ii) is allowed subject to clearing/ payment of all debt/ liability as per the provision of Section 53 of the Code.
- d.** Prayer made in (v) is covered by the provisions of Section 32A, hence, no separate relief in response to this prayer is required to be granted. Therefore, the said provisions would *ipso facto* apply.
- e.** Prayer (viii) is allowed. The ROC concerned shall take action to change the status of the Corporate Debtor in records of the ROC from the status of “liquidation” to the status of “active”.



- f.** Prayer (ix) is allowed. The Board of the Corporate Debtor can be re-constituted as indicated in prayer (ix) and necessary filings may be made to the RoC concerned.
- g.** As regards the prayer (xv), the Liquidator and Applicant shall be at liberty to take all the steps required to make accounting entries for the smooth transmission and clearing the balance sheet as per the applicable accounting standards prescribed under the Companies Act, 2013. The Liquidator is directed to ensure completion of pending filings with the Registrar of Companies, Income Tax Authorities and any other Government / Statutory Authorities.
- h.** As regards to prayer (xvii), since the Corporate Debtor shall be the sole beneficiary of any amount recovered by the Corporate Debtor, it shall be the responsibility also of the Corporate Debtor to pursue such recovery proceedings, if any, in accordance with law.
- i.** Prayer (xix) is allowed. the Liquidator shall continue to hold the Bank a/c with Kotak Mahindra Bank, 'Shamken Spinners Limited, in Liquidation', pertaining to the amount received as sale consideration from the successful bidder, till the closure of the Liquidation process in terms of



Regulation-45(3)(a) of the Liquidation Process Regulations, 2016, so that sale consideration and other money, if any, received can be distributed amongst all creditors in accordance with the provisions of Sec. 53 of IBC, 2016. Further, the Liquidator is empowered to issue directions to the Bank to change the operating signatories or bank accounts of the CD for other than the Liquidation A/c held by the Liquidator, for smooth transition of the CD to the successful bidder.

- j.** Prayer in (xx) is allowed as per law.
- 29.** The Liquidator is directed to provide all support and assistance to the Applicant for the smooth functioning of the Corporate Debtor to complete the acquisition.
- 30.** The Liquidator and Applicant shall be at liberty to take all the steps required to make accounting entries for the smooth transmission and clearing the balance sheet.
- 31.** The Liquidator is directed to ensure completion of pending filings with the Registrar of Companies, Income Tax Authorities and any other Government / Statutory Authorities.
- 32.** The liquidator is directed to send the certified copy of this order within 7 days from the date of pronouncement to the Registrar of Companies, Uttar Pradesh, Kanpur.



- 33.** The Registry is directed to communicate this order to the Registrar of Companies, Uttar Pradesh, Kanpur for updating the master data.
- 34.** In terms of the above, IA No.178 of 2022 filed by the Applicant stands disposed of accordingly.

-Sd-

Ashish Verma
Member (Technical)

-Sd-

Praveen Gupta
Member (Judicial)

1st June, 2023